



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
FOUR PENN CENTER – 1600 JOHN F. KENNEDY BLVD.
PHILADELPHIA, PENNSYLVANIA 19103**

Via Electronic Mail

Mr. Kevin Heym
Industrial Hygienist
Hospital of the University of Pennsylvania
3400 Spruce Street
Philadelphia, PA 19104
Kevin.Heym@pennmedicine.upenn.edu

**Re: Warning Letter – Notice of Violation
Offsite Compliance Monitoring Letter
Hospital of the University of Pennsylvania
EPA ID Number: PAD980715536**

Docket No.: R3-22-NOV-RCRA-11

Dear Mr. Heym:

On August 6, 2021, the U.S. Environmental Protection Agency, Region III (“EPA”) issued an Offsite Compliance Monitoring Information Request Letter (“OfCM IRL”) under the Pennsylvania Solid Waste Management Act (“SWMA”), as amended, 35 P.S. §§ 6018.101 - 6018.1003, and the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C. Sections 6901 et seq., to the Hospital of the University of Pennsylvania (“HUP” or the “Facility”). The Facility responded to EPA’s OfCM IRL on September 30, 2021 (“Facility’s Response”). Additionally, EPA sent follow-up questions to the Facility Response on February 8, 2022, to which the Facility responded on March 21, 2022. Based on the review of your response, EPA has determined that HUP may be in violation of regulations promulgated under the SWMA and RCRA. As a result of this finding, EPA is issuing this **Notice of Violation (“NOV”)**. The specific potential violations are as follows:

1. Failure to notify as a Large Quantity Generator (“LQG”) of hazardous waste (“HW”) – 25 Pa. Code § 262a.18 (referencing 40 C.F.R. § 262.18(d)(2)) requires that a generator shall submit a subsequent notification if the type of regulated activity that takes place at the generator facility changes or if the generator’s generator status changes, except when that status change is temporary. Additionally, a LQG must re-notify by March 1 of each even-numbered year. Based on review of available information and the Facility’s Response, HUP appears to be a LQG of HW. Prior to EPA’s OfCM IRL, the Facility had not re-notified as a LQG under its EPA ID number since 1992.
2. Failure to submit biennial report – 25 Pa. Code § 262a.10 (referencing 40 C.F.R. § 262.41) requires that a generator who is a LQG for at least one month of an odd-numbered year who ships any HW off-site to a treatment, storage or disposal facility within the United States must submit a biennial report by March 1 of the following even-numbered year and must cover generator activities during the previous year. Based on review of available information and the Facility’s Response, at the time of the OfCM IRL, the Facility had not submitted a biennial

report for the 2019 reporting year by March 1 of 2020. It appears that the Facility submitted a biennial report for the 2019 reporting year on September 10, 2021.

3. Failure to maintain complete contingency plan ("CP") – 25 Pa. Code § 262a.10 (referencing 40 C.F.R. §§ 262.17(a)(6) and 262.261(e)) requires that the CP must include a list of all emergency equipment at the facility, where this equipment is required and the location and physical description of each item on the list with a brief outline of its capabilities. Based on the Facility's Response, it appears the Facility's CP does not include a list and location of emergency equipment located at HUP. Additionally, because information appeared to be missing, such as the list and location of emergency equipment and a list of waste generated specific to HUP, it is an area of concern that HUP's CP is combined with the University of Pennsylvania's CP.
4. Failure to use the correct EPA ID number – 25 Pa. Code § 262a.10 (referencing 40 C.F.R. § 262.20(a)) requires that a generator that transports or offers for transport a hazardous waste for offsite treatment, storage, or disposal must prepare a Manifest (OMB Control number 2050-0039) on EPA Form 8700-22, and, if necessary, EPA Form 8700-22A. Completion of the referenced manifest includes listing the Facility's issued EPA ID number. Based on review of the Facility's Response and hazardous waste manifests, it appears that prior to July 2019, the Facility did not use the EPA ID number that was assigned to HUP.

Within **thirty (30) calendar days** of the receipt of this NOV, please submit documentation of any measures the Facility has taken or is taking to achieve compliance with the violations noted above or provide an explanation of facts and circumstances that cause you to believe that EPA's determination of the alleged violations is in error. If the compliance measures identified are planned or are on-going, please provide a schedule for when the compliance measures will be completed.

With regard to the Small Business Regulatory Enforcement and Fairness Act ("SBREFA"), please see the "Information for Small Businesses" memo, found at <https://www.epa.gov/sites/production/files/2017-06/documents/smallbusinessinfo.pdf>, which might be applicable to your facility. This document provides information on contacting the SBREFA Ombudsman to comment on federal enforcement and compliance activities and also provides information on compliance assistance. As noted in the memo, any decision to participate in such program or to seek compliance assistance does not relieve the Facility of its obligation to respond in a timely manner to an EPA request or other enforcement action, create any rights or defenses under law, and will not affect EPA's decision to pursue an enforcement action. To preserve the Facility's legal rights, it must comply with all rules governing the administrative enforcement process. The Ombudsman and fairness boards do not participate in the resolution of EPA's enforcement actions. EPA has not made a determination as to whether or not the Facility is covered by SBREFA.

Section 3008(a) of RCRA authorizes EPA to take an enforcement action whenever it is determined that any person has violated, or is in violation, of any requirement of RCRA as amended. Such an action could include a penalty of up to \$42,292 per day of violation. In addition, failure to achieve and maintain compliance with the regulations cited in this NOV may be treated as a repeated offense and may constitute a "knowing" violation of Federal law. This NOV is not intended to address all past violations, nor does it preclude EPA from including any ongoing violations, including the ones cited in this letter, or past violations in any future enforcement action.

RE: HUP Notice of Violation

Please send your response electronically to:

Rebecca Serfass (3ED22)
Serfass.Rebecca@epa.gov
U.S. Environmental Protection Agency
Region III

If you have any questions regarding this matter, please contact Ms. Serfass at (215) 814-2047 or Serfass.Rebecca@epa.gov.

Sincerely,

Jeanna R. Henry, Chief
Air, RCRA and Toxics Branch
Enforcement and Compliance Assurance Division

cc: Christopher J. McAuliffe, christopher.mcauliffe@morganlewis.com
Melissa Gross (PADEP), melgross@pa.gov
Rebecca Serfass, 3ED22
Pauline Belgiovane, 3ED20